



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2018

CORAM:

WEB COPY

THE HONOURABLE Mr.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mr.JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.853 of 2018

K.Pandi

... Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St.George,
Chennai 600 009.

2.The District Magistrate and District Collector,
Office of the District Collector and District Magistrate,
Dindigul District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for entire records connected with the detention order of the respondent No.2 in Detention Order No.51/2018 dated 15.06.2018 and quash the same and direct the respondents to produce the person or body of the detenu by name Pandeewaran, son of Pandi, aged about 26 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.V.Neelakandan, APP

ORDER

(Order of the Court was made by C.T.SELVAM,J.)

The petitioner is the father of the detenu - Pandeewaran, son of Pandi. The detenu has been detained by the second respondent by the impugned Detention Order No.51/2018 dated 15.06.2018, holding him to be a "Sand Offender", as contemplated under Section 2(gg) of Tamil Nadu Act 14 of 1982.



2. Though several grounds have been raised in the Habeas Corpus Petition, learned counsel for petitioner would mainly focus on the ground that the impugned order of detention suffers from non-application of mind. In that, the Detaining Authority has considered, real possibility of detenu, being released on bail and has arrived at conclusion of real possibility of detenu to be released on bail. Such position is informed in the order of the Detaining Authority in paragraph No.5. The Detaining Authority has further stated that there is real possibility of the detenu coming out on bail by filing further bail application before the Higher Court, which, according to the learned counsel for the petitioner, shows total non-application of mind on the part of the Detaining Authority, which vitiates the order of detention.

3. We have considered the above submissions.

4. An identical issue was considered by a Division Bench of this Court in **T.Chitra Vs. State of Tamil Nadu**, reported in **2014 (2) MLJ Cr1 72** and the order of detention was set aside on the ground of non-application of mind. Hence, following the said order, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.51/2018 dated 15.06.2018, is quashed. The detenu, namely, Pandeewaran, son of Pandi, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

5. In the result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai 600 009.

2. The District Magistrate and District Collector,
Office of the District Collector and District Magistrate,
Dindigul District.



3.The Superintendent of Prison,
Madurai Central Prison, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Joint Secretary,
Public (Law and Order) Department,
Secretariat, Chennai - 600 009.

NBJ

TE/KAK/SAR-3 : 14/08/2018 : 3P/6C

H.C.P. (MD) No.853 of 2018
24.07.2018